WP(C) 1981/2004

BEFORE

THE HON'BLE MR. JUSTICE B.K. SHARMA

By means of this writ petition, the petitioners numbering 6 have assailed the Annexure-V order dated 12.3.2004 canceling the certificate earlier issued to them vide order dated 8.3.2004 in respect of handing over the land in Dag No. 22 of Gerimari Chapori under Rangamati Mouza.

The possession of the land in respect of Dag No. 22 was given to the petitioners upon acceptance of premium etc. When the petitioners were not given the periodic patta etc. in respect of the land, they approached this Court by filing WP(C) No. 8413/2001 praying for a direction to the Deputy Commissioner, Darrang for allotment of the land with issuance of patta. The writ petition was disposed of on 5.9.2002 with the direction to the Deputy Commissioner, Darrang to issue/give patta and the possession of the land after evicting encroachers if any in accordance with the provisions of law. Pursuant to the said order, the petitioners were given possession of the land demarcating the Dag No. 22 in 6 plots numbering 22/1332; 22/1333; 22/1334; 22/1335; 22/1336 and 22/1337.

When the matter rested thus, the aforesaid impugned Annexure-V order canceling the proof certificate earlier issued was passed without affording any opportunity of being heard to the petitioners.

In the counter affidavit filed by the respondents, it has been stated thus:

That in regard to the statements made in paragraphs 14, 15 and 16 of the writ petition the deponent begs to state that in order to carry out the order passed by the Hon'ble Court in Writ Petition (C) NO. 8413/2001 filed by Shri Madhab Chandra Sarma & 51 Ors., the Circle Officer, Mangaldoi handed over possession of land to 10 petitioners along with the petitioners Sri Madhab Chandra Sarma & 5 Ors. After handing over possession of land, it is learnt that, the plots handed over to the writ petitioners Sri Madhab Chandra Sarma & 5 others are the parts of allotted land to the office of the District Elementary Education Officer, Darrang Mangaldoi. So that possession of the petitioners from the said plots were cancelled to avoid the inconvenient circumstances to the arisen. And possession of land will be given to them in another suitable plots in same Dag No. 22 of Gerimari Chapori as early as possible.

From the above what is seen is that according to the respondents, the land was earlier allotted for the office of the District Elementary Education Officer, Darrang Mangaldoi and accordingly the earlier order/certificate of proof of possession to the petitioners had to be cancelled. It has been stated that the petitioners would be given another suitable plot in same Dag No. 22 of Gerimari Chapori as earlier as possible.

While entertaining the writ petition by order dated 19.3.2004 direction was issued to maintain status-quo in respect of the possession of the land. The affidavit-in-opposition was filed on 3.7.2004. By now, about 9 years have gone by and the present position is not known. The petitioners have also not filed any affidavit-in-reply to the affidavit-in-opposition.

In view of the above, the writ petition is allowed interfering with the Annexure-V notice dated 12.3.2004 as the same was issued without hearing the petitioners. At the same time, it will be open for the respondents to proceed with the matter in accordance with law and in reference to what has been stated in paragraph-7 of the counter affidavit. However, if in the meantime the matter has been settled, the said position need not be disturbed in terms of this order.

The writ petition is disposed of, without, however, any order as to costs.